

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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In re: :
: In Chapter 13
LARRY M. THOMAS JR. :
: Bankruptcy No. 14-19782 (MDC)
Debtor. :
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**THE CITY OF PHILADELPHIA’S OBJECTION TO
THE PROPOSED FIRST AMENDED CHAPTER 13 PLAN**

TO THE HONORABLE MAGDELINE D. COLEMAN:

AND NOW, comes the City of Philadelphia, (the “City”), a secured creditor in the above-captioned case, by and through its Counsel, Megan N. Harper, Deputy City Solicitor, pursuant to Bankruptcy Code §§ 506(b), 1325(a)(5), and L.B.R. 3015-1(c), to object to the proposed first amended Chapter 13 plan (the “Plan”), of the above-captioned debtor, (the “Debtor”). The City avers the following in support thereof:

1. On or about December 12, 2014, the Debtor filed a voluntary petition (the “Petition”) for Chapter 13 bankruptcy with this Court.

2. A list of all real property owned by the Debtor was filed on December 14, 2014, which included the property addressed 5659 Heiskell Street, Philadelphia, Pennsylvania (the “Subject Property”). A copy of the Debtor’s Schedule A is attached hereto as **Exhibit A**.

3. The Subject Property is alleged by the Debtor to have a current value of Forty-Three Thousand Seven Hundred Dollars (\$43,700.00). See Exhibit A.

4. On May 12, 2015, the City filed a claim in the amount of Seven Thousand Nine Hundred Five Dollars and Ninety-Two Cents (\$7,905.92) for real estate taxes and

judgments on the Subject Property (the “Secured Claim”). A copy of the proof of claim filed by the City is attached hereto as **Exhibit B**.

5. As neither the Debtor nor another party in interest has objected to the Secured Claim it is deemed allowed. See 11 U.S.C. § 502(a).

6. On December 6, 2015, the Debtor filed the Plan, which provides for payment of Seven Thousand Nine Hundred Five Dollars (\$7,905.00) to the City and fails to provide for accurate post-petition interest. A copy of the Plan is attached hereto as **Exhibit C**.

7. The City is entitled to post-petition interest on the Secured Claim until the last payment under the Plan. See 11 U.S.C. § 506(b); See also *U.S. v. Ron Pair Enters.*, 489 U.S. 235 (1989), *In re Nixon*, 404 Fed. Appx. 575, 578 (3d Cir. 2010), and *In re Bernbaum*, 404 B.R. 39, 42 (Bankr. D. Mass. 2009).

8. The post-petition interest applicable to the judgment portion of the Secured Claim is the six percent (6%) statutory interest rate of interest on judgments entered against the Debtor. See *U.S. v. Ron Pair Enters.*, 489 U.S. 235 (1989), 42 Pa.C.S. §8101, and 41 P.S. § 202.

9. The post-petition interest applicable to the real estate tax portion of the Secured Claim is the nine percent (9%) interest rate on real estate taxes assessed on the Subject Properties. See 11 U.S.C. § 511(a), Phil. Code § 19-1303, and *In re Bernbaum*, 404 B.R. 39, 43 (Bankr. D. Mass. 2009).

10. The Plan should not be confirmed as the City, a secured creditor, has not accepted the plan. See 11 U.S.C. 1325(a)(5)(A).

11. The Plan should not be confirmed as it fails to provide post-petition interest on the Secured Claim and thus does not ensure that distributions under the plan are not less than the allowed amount of the Secured Claim. See 11 U.S.C. §§ 506(b), 1325(a)(5)(B)(II), and *In re Bernbaum*, 404 B.R. 39, 42 (Bankr. D. Mass. 2009).

WHEREFORE, the City respectfully requests that this Court DENY confirmation of the Plan.

Respectfully submitted,

THE CITY OF PHILADELPHIA

Dated: December 21, 2015

By: /s/ Megan N. Harper
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